

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KEVIN P. LEBEAU and CATHERINE M.
TZOUMAS-LEBEAU,
Plaintiffs

v.

C.A. No. 1:21-cv-10169

KIRBY Q. BOMBARD and FERGUSON
ENTERPRISES, LLC, f/k/a FERGUSON
ENTERPRISES, INC.,
Defendants

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a), the Defendants, Kirby Q. Bombard and Ferguson Enterprises, LLC f/k/a Ferguson Enterprises, Inc., file this Notice of Removal, and respectfully states the following to this Honorable Court:

1. The Defendants are named in the Complaint entitled Kevin P. Lebeau and Catherine M. Tzoumas-Lebeau v. Kirby Q. Bombard and Ferguson Enterprises, LLC, f/k/a Ferguson Enterprises, Inc., Hampden Superior Court, Hampden County, Massachusetts, Civil Action No. 20-00677 (hereinafter “the State Court Action”). *See* Complaint, a true and accurate copy of which is attached hereto as Exhibit 1.

2. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1441, because the case is a civil action between citizens of different states wherein the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

3. In the Complaint, the Plaintiffs raise allegations of negligence, *respondeat superior* and loss of consortium. *See* Ex. 1, ¶¶ 12-24. The Plaintiffs’ claims are in excess of the \$75,000; in fact, the Civil Action Cover Sheet states that their damages are \$2,200,000. *See* Civil Action

Cover Sheet, a true and accurate copy of which is attached hereto as Exhibit 2. Therefore, this case is properly within the jurisdictional amount of this Court.

4. The Plaintiffs are residents of Chicopee, Hampden County, Massachusetts. *See* Ex. 1, ¶¶ 1-2.

5. The Defendant, Kirby Q. Bombard, is a resident of Bristol, Connecticut. *See* Ex. 1, ¶ 3.

6. The Defendant, Ferguson Enterprises, LLC f/k/a Ferguson Enterprises, Inc., is a Virginia corporation with a principal place of business in Newport News, Virginia. *See* Ex. 1, ¶ 4.

7. Accordingly, diversity jurisdiction existed at the time that the Plaintiffs filed the Complaint and diversity jurisdiction now exists.

8. Because this is a civil action of which the district courts of the United States have original jurisdiction, the case may be removed to this Court pursuant to 28 U.S.C. § 1441.

9. The Plaintiffs filed the Complaint in Hampden Superior Court on December 22, 2020.

10. The Defendants were served with the Summons and Complaint on January 13, 2021. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within 30 days of receipt of the Complaint.

11. Removal is proper in this district under 28 U.S.C. § 1441(a) because this district and division embraces the place where the removed action is pending.

12. Promptly after the filing of the Notice of Removal, the Defendants shall give written notice of the removal to the Plaintiffs through her attorney of record and to the clerk of the Hampden Superior Court, as required by 28 U.S.C. § 1446(d).

13. In accordance with Local Rule 81.1, the Defendants will file certified or attested copies of all records and proceedings in Hampden Superior Court and a certified or tested copy of all docket entries in Hampden Superior Court within 28 days of filing this Notice of Removal.

WHEREFORE, the Defendants, Kirby Q. Bombard and Ferguson Enterprises, LLC, f/k/a Ferguson Enterprises, Inc., respectfully request that this action now pending in Hampden Superior Court, Hampden County, Massachusetts, be removed to the United States District Court for the District of Massachusetts, as an action properly removable thereto and seeks general relief.

Respectfully Submitted,

Defendant,

KIRBY Q. BOMBARD AND FERGUSON ENTERPRISES,
LLC, F/K/A FERGUSON ENTERPRISES, INC.

By their attorneys,

/s/ Christopher P. Flanagan
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Dated: February 1, 2021

CERTIFICATE OF SERVICE

I, Christopher P. Flanagan, hereby certify that, on this 1st day of February 2021, the foregoing document was submitted for filing through the ECF system. The document will be sent electronically to the registered participants, and paper copies will be served via first class mail on those who have appeared and are indicated as non-registered participants.

/s/ Christopher P. Flanagan
Christopher P. Flanagan